



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4306

Introduced 12/21/05, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

410 ILCS 335/10
410 ILCS 335/15 new
410 ILCS 335/20 new

Amends the Perinatal HIV Prevention Act. Requires HIV testing of newborns when the HIV status of the mother is unknown (now, testing is voluntary). Requires counseling to include the voluntary nature of the HIV test for a pregnant woman. Requires the reporting of a positive HIV test for a newborn infant to an electronic surveillance system established by the Department of Public Health. Requires the Department to adopt rules specifying the information required in the report. Provides that the confidentiality provisions of the AIDS Confidentiality Act apply to the reports. Requires the Department or its authorized representative to provide case management services to ensure access to proper care. Provides that hospitals, laboratories, other facilities, and physicians will not be held liable for the release of information or confidential data in accordance with the Act. Requires all HIV exposed newborns to be treated to prevent HIV infection within 24 hours after birth and until 6 weeks after birth. Effective Immediately.

LRB094 16161 LJB 51402 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning public health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Perinatal HIV Prevention Act is amended by
5 changing Section 10 and by adding Sections 15 and 20 as
6 follows:

7 (410 ILCS 335/10)

8 Sec. 10. HIV counseling and offer of HIV testing required.

9 (a) Every health care professional who provides health care
10 services to a pregnant woman shall provide the woman with HIV
11 counseling and offer HIV testing, unless she has already
12 received an HIV test during pregnancy. HIV testing shall be
13 provided with the woman's consent. A health care professional
14 shall provide the counseling and offer the testing as early in
15 the woman's pregnancy as possible. For women at continued risk
16 of exposure to HIV infection in the judgment of the health care
17 professional, a repeat test should be offered late in
18 pregnancy. The counseling and offer of testing shall be
19 documented in the woman's medical record.

20 (b) Every health care professional or facility that cares
21 for a pregnant woman during labor or delivery shall provide the
22 woman with HIV counseling and offer HIV testing. HIV testing
23 shall be provided with the woman's consent. No counseling or
24 offer of testing is required if already provided during the
25 woman's pregnancy. The counseling and offer of testing shall be
26 documented in the woman's medical record. Any testing or test
27 results shall be documented in accordance with the AIDS
28 Confidentiality Act.

29 (c) Every health care professional or facility caring for a
30 newborn infant shall, upon delivery or within 48 hours after
31 the infant's birth, provide counseling to the parent or
32 guardian of the infant and perform HIV testing, when the HIV

1 status of the infant's mother is unknown,~~if the parent or~~
2 ~~guardian does not refuse. The health care professional or~~
3 ~~facility shall document in the woman's medical record that~~
4 ~~counseling and the offer of testing were given, and that no~~
5 ~~written refusal was given.~~

6 (d) The counseling required under this Section must be
7 provided in accordance with the AIDS Confidentiality Act and
8 must include the following:

9 (1) For a pregnant woman, the voluntary nature of the
10 testing and the ~~The~~ benefits of HIV testing, ~~for the~~
11 ~~pregnant woman,~~ including the prevention of transmission.

12 (2) The benefit of HIV testing for the newborn infant,
13 including interventions to prevent HIV transmission.

14 (3) The side effects of interventions to prevent HIV
15 transmission.

16 (4) The statutory confidentiality provisions that
17 relate to HIV and acquired immune deficiency syndrome
18 ("AIDS") testing.

19 ~~(5) The voluntary nature of the testing, including the~~
20 ~~opportunity to refuse testing of a newborn infant in~~
21 ~~writing.~~

22 (e) All counseling and testing must be performed in
23 accordance with the standards set forth in the AIDS
24 Confidentiality Act, with the exception of the requirement of
25 consent for testing of newborn infants. Consent for testing of
26 a newborn infant shall be presumed when a health care
27 professional or health care facility seeks to perform a test on
28 a newborn infant whose mother's HIV status is not known,
29 provided that the counseling required under subsection (d) has
30 taken place ~~and the newborn infant's parent or guardian has not~~
31 ~~indicated in writing that he or she refuses to allow the~~
32 ~~newborn infant to receive HIV testing.~~

33 (f) The Illinois Department of Public Health shall adopt
34 necessary rules to implement this Act.

35 (Source: P.A. 93-566, eff. 8-20-03.)

1 (410 ILCS 335/15 new)

2 Sec. 15. Reporting.

3 (a) A positive HIV test for a newborn infant shall be
4 reported to an electronic surveillance system established by
5 the Department of Public Health within the time period and in
6 the manner required by the Department, but in no case shall the
7 time period exceed 48 hours.

8 (b) The Department of Public Health shall adopt rules
9 specifying the information required in reporting the positive
10 HIV test of a newborn infant. In adopting the rules, the
11 Department shall consider the need for information,
12 protections for the privacy and confidentiality of the infant
13 and mother, and the need to provide access to care and
14 follow-up services to the infant and the mother.

15 (c) The confidentiality provisions of the AIDS
16 Confidentiality Act shall apply to the reports of cases of
17 perinatal HIV made pursuant to this Section.

18 (d) The Department of Public Health or its authorized
19 representative shall provide case management services to the
20 parent or guardian of the newborn infant, the facility, or the
21 physician or health care professional responsible for care of
22 the newborn infant to ensure access to treatment and care and
23 other services as appropriate.

24 (e) Hospitals, laboratories, other facilities, or
25 physicians shall not be held liable for the release of
26 information or confidential data to the Department of Public
27 Health in accordance with this Act.

28 (410 ILCS 335/20 new)

29 Sec. 20. Treatment obligation. All HIV exposed newborn
30 infants shall be treated to prevent HIV infection within 24
31 hours after birth and until 6 weeks after birth.

32 Section 99. Effective date. This Act takes effect upon
33 becoming law.